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9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE EASTERN DISTRICT OF CALIFORNIA
11 FRESNO DIVISION
12

13 **DORA SOLARES,**

14 Plaintiff,

15 v.

16 **RALPH DIAZ, et al.,**

17 Defendants.
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1:20-CV-00323-LHR

**DEFENDANTS' OPPOSITION TO
OSUNA'S MOTION FOR PROTECTIVE
ORDER**

Judge: The Honorable Lee H.
Rosenthal

Action Filed: March 2, 2020

1 Non-party Osuna seeks a protective order barring his deposition in this matter. (Osuna's
2 Mot. for Protective Order, ECF No. 215.) There is no reason to bar Osuna's deposition here, and
3 Osuna's motion should be denied. The motion is also duplicative of Plaintiff's previous motion
4 (ECF No. 198), which Defendants opposed on July 31, 2025 (ECF No. 200).

5 Osuna asserts that his deposition should be barred due to potential impact on his Fifth
6 Amendment rights. (*Id.* at 1.) But a potential implication of Fifth Amendment rights does not
7 mean that Osuna's deposition should be barred. Instead, courts have approached parallel criminal
8 and civil proceedings where Fifth Amendment rights are implicated by examining the "particular
9 circumstances and competing interests involved in the case" to determine whether to *stay* the civil
10 proceeding until the criminal proceeding is resolved. *Keating v. Office of Thrift Supervision*, 45
11 F.3d 322, 324-25 (9th Cir. 1995). Barring a deposition is not a remedy considered in any of the
12 authorities Osuna cites. *See Keating*, 45 F.3d at 325-26 (affirming decision not to stay ALJ
13 proceeding); *SEC v. Dresser Indus., Inc.*, 202 U.S. App. D.C. 345, 628 F.2d 1368, 1375-76
14 (1980) (affirming decision not to stay administrative investigation); *Wehling v. Columbia Broad.*
15 *Sys.*, 608 F.2d 1084, 1088-89 (5th Cir. 1979) (reversing decision to dismiss libel action case
16 instead of staying civil matter while criminal matter was pending). Osuna's request that his
17 deposition be barred lacks support, at most his objections based on the Fifth Amendment would
18 warrant a stay.

19 Defendants believe that a stay may ultimately be appropriate in this case due to the
20 importance of Osuna's testimony and the implication of his Fifth Amendment rights. (*See* Defs.'
21 Response to Osuna's Emergency Motion at 2-3, ECF No. 192 (stating that the court should
22 consider a stay); Defs' Opp'n to Pl.'s Mot. at 2, ECF No. 200 (describing the importance of
23 Osuna's testimony).) But Osuna's deposition should go ahead to allow the parties to determine
24 what discovery they can and cannot get with the criminal matter pending. Once that information
25 is available, the parties and the Court can determine whether a stay is appropriate.

26 Allowing the deposition to go forward will not infringe on Mr. Osuna's Fifth Amendment
27 rights. He can (and asserts that he will) assert the Fifth Amendment as to the questions asked.
28 (*See* Osuna's Mot. at 1.) But while some of the questions the parties have for Osuna may

1 implicate his Fifth Amendment rights, other questions will not. Defendants do not believe, for
2 example, that the Fifth Amendment would prevent Osuna from answering questions about events
3 leading to the night of March 8-9, 2019.

4 Mr. Osuna's deposition should go ahead. His motion for a protective order barring the
5 deposition should be denied.

6 Dated: January 8, 2026

Respectfully submitted,

7 ROB BONTA
8 Attorney General of California
9 JON S. ALLIN
Supervising Deputy Attorney General

10 /s/ Jeremy Duggan
11 JEREMY DUGGAN
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CERTIFICATE OF SERVICE

Case Name: **Dora Solares v. Ralph Diaz, et al.** No. **1:20-CV-00323-LHR**

I hereby certify that on January 8, 2026, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

➤ **DEFENDANTS' OPPOSITION TO OSUNA'S MOTION FOR PROTECTIVE ORDER**

Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

I further certify that some of the participants in the case are not registered CM/ECF users. On January 8, 2026, I have caused to be mailed in the Office of the Attorney General's internal mail system, the foregoing document(s) by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within three (3) calendar days to the following non-CM/ECF participants:

Jamie Osuna, BD-0868
California State Prison, Corcoran (3476)
P.O. BOX 3476
CORCORAN, CA 93212-3476

In Pro Per

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on January 8, 2026, at Sacramento, California.

I. Martinez
Declarant

/s/ ***I. Martinez***
Signature